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*International Markets Live, Inc. and*  
14 *Counterdefendant Christopher Terry*

15 **UNITED STATES DISTRICT COURT**  
16 **DISTRICT OF NEVADA**

17 INTERNATIONAL MARKETS LIVE INC.,  
a New York corporation dba IM MASTERY  
18 ACADEMY,

19 Plaintiff,

20 v.

21 DAVID IMONITIE an individual; SPELA  
SLUGA, an individual; DEVON ROESER, an  
individual; IVAN TAPIA, an individual;  
22 NVISIONU, INC., a Delaware corporation;  
ILYKIT, LLC, a Utah limited liability  
23 company, LUCAS LONGMIRE, an  
individual; NATHAN SAMUEL, an  
24 individual; MICHAEL ZHOR, an individual;  
IMRAN RICHIE, an individual; JUSTIN  
25 OWENS, an individual; PAULO  
CAVALLERI, an individual; JOSE MIGUEL  
26 CONTREAS, an individual; BASS GRANT,  
an individual; ANGELA CRUISHANK, an  
27 individual; JEFF CRUISHANK, an  
individual; VINCE MURPHY, an individual;  
28 GARY MCSWEEN, an individual;

Case No.: 2:22-cv-01863-GMN-BNW

**FIFTH STIPULATED DISCOVERY  
PLAN AND SCHEDULING ORDER**

**SPECIAL SCHEDULING REVIEW  
REQUESTED**

KATRINA WORGESS, an individual; LUIS RONALDO HARNANDEZ ARRIAGA, an individual; STEPHANIA AYO, an individual; SILVIA AYO, an individual; CATALINA VASQUEZ, an individual; MATHIAS VASQUEZ, an individual; DOES 1 through 10, inclusive; and ROE CORPORATIONS I through X, inclusive,

Defendants.

AND ALL RELATED MATTERS.

Plaintiff INTERNATIONAL MARKETS LIVE INC., dba IM MASTERY ACADEMY (“IML” or “Plaintiff”), and Defendants DAVID IMONITIE (“Imonitie”), SPELA SLUGA (“Sluga”), DEVON ROESER (“Roeser”), IVAN TAPIA (“Tapia”), NVISIONU, INC. (“NvisionU”), and ILYKIT, LLC, (“ILYKIT”)<sup>1</sup> (collectively, as the “Parties”), by and through their respective undersigned counsel, having conducted their Supplemental Rule 26(f) conference on December 5, 2022 and in accordance with Rules 16(b) and 26(f) of the Federal Rules of Civil Procedure (“FRCP” or “Rule”) and Local Rule 26-1 (“LR”), submitted their Stipulated Discovery Plan and Scheduling Order (“DPSO”), with special scheduling review requested (ECF No. 35), which the Court approved on December 8, 2022 (ECF No. 37).

On February 14, 2023, the existing Parties and subsequently appearing Defendants BASS GRANT, LUCAS LONGMIRE, and VINCE MURPHY, by and through their respective undersigned counsel, conducted their supplemental Rule 26(f) conference and stated and proposed no changes to the then existing DPSO (ECF Nos. 37, 120), which the Court approved on March 6, 2023 (ECF No. 126).

On April 21, 2023, the parties to the Second DPSO (ECF No. 126) and subsequently appearing Counterdefendant CHRISTOPHER TERRY, by and through their respective undersigned counsel, conducted a supplemental Rule 26(f) conference regarding necessary amendments/modifications to the discovery plan/scheduling order in light of Tapia’s Counterclaim (ECF No. 44) and Imonitie’s Counterclaim (ECF No. 128) and, filed a proposed Third DPSO on

<sup>1</sup> ILYKIT, LLC has been dismissed from this action. (ECF No. 207).

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May 2, 2023 (ECF No. 158), stipulating and agreeing to certain changes to the Second DPSO (ECF No. 126), which the Court approved on May 18, 2023 (ECF No. 177).

On June 19, 2023, the parties to the Third DPSO (ECF No. 177) and subsequently appearing Defendants ANGELA CRUICKSHANK and JEFF CRUICKSHANK (collectively, as the “Cruickshanks”) and JUSTIN OWENS (“Owens”), by and through their respective undersigned counsel, conducted a supplemental Rule 26(f) conference regarding necessary amendments/modifications to the discovery plan/scheduling order and, collectively, **filed a proposed Fourth DPSO on June 21, 2023 (ECF No. 205), stipulating and agreeing to certain changes to the Third DPSO (ECF No. 177), which the Court approved on June 22, 2023 (ECF No. 209). A First Amendment/Correction to Fourth DPSO was later entered on June 26, 2023 (ECF Nos. 212, 213) to correct a clerical error/typo.**

On July 7, 2023, counsel for the respective parties conducted a meet and confer to discuss various discovery disputes and issues. The parties agree that a 60-day extension of the current discovery deadlines is necessary in light of the pending Motion to Stay Discovery (ECF No. 201) filed by the Cruickshanks and Owens and the depositions currently noticed and scheduled. Thus, the parties hereby stipulate/agree and propose the following certain changes to the Fourth DPSO (ECF No. 213) (*amendments/modifications in bold*)<sup>2</sup>:

#### I. DISCOVERY PLAN

The following addresses each element of a Discovery Plan and Scheduling Order, a summary of events and dates follows this narrative.

##### A. **Rule 26(a) Initial Disclosures.** *What changes should be made in the timing, form, or requirement for disclosures under Rule 26(a), including a statement of when initial disclosures were made or will be made.*

The Parties agree that Initial Disclosures will be due on January 5, 2023, given the holidays.

The parties further agree that with respect to parties served or joined after the Rule 6(f) conference, the time for initial disclosures will be governed by Rule 26(a)(1)(D), which provides

<sup>2</sup> The Cruickshanks and Owens do not waive their pending challenge to personal jurisdiction by agreeing to extend discovery deadlines, participating in the supplemental Rule 26(f) conference, or stipulating to joining in the SPO.

that “[a] party that is first served or otherwise joined after the Rule 26(f) conference must make the initial disclosures within 30 days after being served or joined, unless a different time is set by stipulation or court order.”

**B. Discovery Period; Scope/Extent of Discovery.** *The subjects on which discovery may be needed, when discovery should be completed, and whether discovery should be conducted in phases or be limited to or focused on particular issues.*

In this removed action, the first defendant otherwise appeared on November 4, 2022. (ECF No. 1).<sup>3</sup>

The Parties agree that discovery as to claims and defenses is needed and that 270 days are required for discovery measured from December 5, 2022, the date of the Rule 26(f) Conference: Friday, September 1, 2023.

The parties agreed a longer period of discovery – more than 180-days - is needed. The longer period is needed in light of the pending and anticipated motion practice, issues related to disputed expedited discovery, potential first amended complaint, potential Defendant(s) motion to assert counter-claim(s), as well as the number of defendants and the various states and some witnesses may reside in foreign countries.

Upon supplementally conferring, the parties agree that an additional 180 days to the existing deadlines in the Second DPSO (ECF No. 126) is needed in light of the additional 19 claims and party counterdefendant newly added by Tapia’s Counterclaim (ECF No. 44) and Imonitie’s Counterclaim (ECF No. 128).

Based on their supplemental Rule 26(f) conference and subsequent communications, the parties agree that an additional 120 days to the existing deadlines in the Third DPSO is needed (ECF No. 177) in light of these additional parties appearing in this action. The Cruickshanks and Owens have agreed to the 120 day extension in light of their pending motion to stay discovery.

**Based on their meet and confers and discussions, the parties agree that a 60-day extension of the current discovery deadlines in the Fourth DPSO (ECF No. 213) is needed given the parties’ disputed positions as to whether and to what extent the depositions of the**

<sup>3</sup> Prior to removal, the first defendant answered in the State Court Action (A-22-854783-B) on August 31, 2022. (ECF No. 5-5).

1 Cruickshanks and Owens as currently noticed and scheduled may proceed in light of the  
2 pending Motion to Stay Discovery (ECF No. 201) filed by the Cruickshanks and Owens.

3 **C. Amended Pleadings and Adding Parties**

4 As indicated above, Plaintiffs' and Defendants each have indicated they may bring  
5 motion(s) to amended and add parties. There is no stipulation between the parties regarding  
6 Plaintiff's prior motion to amend. The deadline to amend pleadings or add parties, 90-days before  
7 the close of discovery, is acceptable to all parties; Monday June 5, 2023.

8 The parties agree to extend the current deadline to amend pleadings and add parties by 180  
9 days from June 5, 2023 to November 30, 2023.

10 The parties agree to extend the current deadline to amend pleadings and add parties by 120  
11 days from November 30, 2023 to March 29, 2024.

12 ***See Proposed Deadlines, infra.***

13 **D. Disclosure of Expert(s) Deadline**

14 The parties are agreeable to setting the disclosure of experts 60-days before the close of  
15 discovery, which is Monday, July 3, 2023 and rebuttal experts 30-days before the close of discovery,  
16 which is Wednesday, August 2, 2023.

17 The parties agree to extend the current expert deadlines by 180 days: for initial expert  
18 disclosures from June 7, 2023 to December 29, 2023; and for rebuttal expert disclosures from August  
19 8, 2023 to January 29, 2024.

20 The parties agree to extend the current expert deadlines by 120 days: for initial expert  
21 disclosures from December 29, 2023 to April 27, 2024; and for rebuttal expert disclosures from  
22 January 29, 2024 to May 28, 2024.

23 ***See Proposed Deadlines, infra.***

24 **E. Dispositive Motion Deadline**

25 The parties are agreeable to setting dispositive motions 30-days after the close of discovery,  
26 which is Monday, October 2, 2023.

27 The parties agree to extend the current dispositive motions deadline by 180 days from  
28 October 2, 2023 to March 29, 2024.

The parties agree to extend the current dispositive motions deadline by 120 days from March 29, 2024 to July 29, 2024.

***See Proposed Deadlines, infra.***

**F. Joint Pre-Trial Order Deadline**

The parties are agreeable to the deadline for the joint pre-trial order 30-days after the dispositive-motion deadline, which is Wednesday November 1, 2023, and if dispositive motions are filed, the deadline for filing the joint pretrial order will be suspended until 30-days after decision on the dispositive motion or further order of the Court.

The parties agree to extend the current Joint Pretrial Order deadline by 180 days from November 2, 2023 to April 29, 2024.

The parties agree to extend the current Joint Pretrial Order deadline by 120 days from April 29, 2024 to August 27, 2024.

***See Proposed Deadlines, infra.***

**G. Alternative Dispute Resolution**

Each Party does hereby certify that they have met and conferred during the December 5, 2022, Rule 26(f) conference and discussed the possibility of using the court's alternative dispute resolution process ("ADR") including mediation, arbitration, and if applicable, early neutral evaluation. Based on these discussions, the Parties mutually decline to participate in ADR at this time, but will continue to evaluate alternative dispute resolution processes on a going forward basis.

**H. Alternative Forms of Case Disposition.**

Each Party does hereby certify that they have met and conferred during the December 5, 2022, Rule 26(f) conference and discussed the possibility of using a magistrate judge under 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73 and the use of the Short Trial Program (General Order 2013-01). The parties each declined this alternative.

**I. Electronically Stored Information ("ESI").** *Any issues about disclosure, discovery, or preservation of electronically stored information, including the form or forms in which it should be produced.*

IML filed a Motion to Establish ESI Protocol in Furtherance of Expedited Discovery, dated November 18, 2022 (ECF No. 17), which the Magistrate Judge denied without prejudice and directed

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the Parties to meet and confer (ECF No. 25). The Parties met and conferred regarding protocols governing the production of ESI. IML circulated a draft Stipulation and Order Governing Production of ESI. In response, Defendants proposed instead using the U.S. Northern District of California's model stipulated order re discovery of electronically stored information for standard litigation. IML proposed redlines thereto. At the supplemental Rule 26(f) conference, the parties agreed that Defendants will respond to Plaintiff's proposed redlines by May 1, 2023 and if not in agreement therewith shall participate in a supplemental meet and confer regarding the same on May 2, 2023, at 10:00 a.m. (PST). The Parties will determine if an ESI protocol can be agreed to, or if motion(s) regarding the same will need to be filed to obtain guidance from the Court.

The Parties were unable to come to an agreeable ESI protocol. As a result, on May 8, 2023, Plaintiff filed its Motion to Establish ESI Protocol in Furtherance of Discovery. (ECF No. 164). On May 22, 2023, Defendants filed their Joint Response (ECF No. 181), to which Plaintiff replied on May 26, 2023 (ECF No. 185). The Motion to Establish ESI Protocol in Furtherance of Discovery is currently pending before the Court for adjudication and is set to be heard on July 18, 2023 at 1:00 p.m.

**J. Privileges; Trial Preparation Materials.** *Any issues about claims of privilege or of protection as trial-preparation materials, including—if the parties agree on a procedure to assert these claims after production—whether to ask the court to include their agreement in an order under Federal Rule of Evidence 502.*

Plaintiff and Defendants Imonitie, Sluga, Roeser, and Nvision have entered into a Protective Order Regarding Confidentiality (the "SPO"). (ECF No. 5-7). Defendants ILYKIT, Tapia, Grant, Longmire, and Murphy have stipulated and joined in the SPO. (ECF Nos. 135, 136). Defendants Angela Cruickshank, Jeff Cruickshank, and Justin Owens have stipulated and agreed to join in the SPO.

**K. Limitations on Discovery.** *What changes should be made in the limitations on discovery imposed under these rules or by local rule, and what other limitations should be imposed.*

There is currently a dispute concerning an order issued by the State District Court regarding an order to show cause. Plaintiff believes the State Court Order is effective. Defendants David Imonitie, Spela Sluga, Devon Roeser, and Nvisionu, Inc. have filed a motion seeking clarity



1 regarding the State Court Order, which is currently pending before this Court for adjudication.  
 2 Defendants also filed a motion to vacate order in the state court action, which was denied. (ECF No.  
 3 116). Depending on the ruling on this order, the Parties may revisit Limitation of Discovery.

4 On May 19, 2023, the Court entered its Order re ECF No. 161, granting in part and denying  
 5 in part Plaintiff's Motion for Order Setting Number of Depositions Permitted Under FRCP 30(a).  
 6 (ECF No. 179). The Court's Order grants Plaintiff's Motion to the extent it seeks to enlarge the  
 7 number of depositions presumptively allowed with respect to depositions of the named Defendants  
 8 (ECF No. 179 at 4), but denied the remainder of Plaintiff's Motion without prejudice (ECF No. 179  
 9 at 2–3).

10  
 11 **L. Other Orders.** *Any other orders that the court should issue under Rule 26(c) or*  
*under Rule 16(b) and (c).*

12 There are pending issues regarding the ESI Protocol and number of interrogatories that  
 13 require resolution.

14  
 15 **M. Electronic Evidence.**

16 No jury trial demand has been made.

17 Tapia's Counterclaim and Imonitie's Counterclaim respectively demand "a jury for all  
 18 claims so triable." Plaintiff/Mr. Terry anticipate they will likely present evidence in electronic format  
 19 to jurors. Defendants also anticipate using evidence in electronic format to the jurors. The parties  
 20 agree to meet and confer and attempt to reach a mutually agreeable stipulation governing the  
 21 presentation of electronic evidence, which shall be compatible and in accordance with the court's  
 22 electronic jury evidence display system and any applicable rules/guidelines/instructions thereby.

23 **II. SCHEDULING ORDER**

24 **FRCP 26(f); LR 26-1(b)**

**Current Deadlines**

**Proposed Deadlines**

25 **Discovery Cut-Off Date:**  
 26 Unless the court orders otherwise,  
 27 discovery periods longer than 180  
 28 days from the date the first  
 defendant answers or appears will  
 require special scheduling review

06/28/2024

08/27/2024



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1	<b>Amending Pleadings &amp; Adding Parties:</b>	03/29/2024	05/29/2024
2	Unless the discovery plan		
3	otherwise provides and the court		
4	so orders, the deadline for filing		
5	motions to amend the pleadings or		
6	to add parties is 90 days before the		
7	close of discovery		
8	<b>FRCP 26(a)(2) Initial Expert Disclosures:</b>	04/27/2024	06/28/2024
9	Unless the discovery plan		
10	otherwise provides and the court		
11	so orders, the deadlines in Fed. R.		
12	Civ. P. 26(a)(2)(D) for expert		
13	disclosures are modified to require		
14	that the disclosures be made 60		
15	days before the discovery cut-off		
16	date		
17	<b>FRCP 26(a)(2) Rebuttal Expert Disclosures:</b>	05/28/2024	07/29/2024
18	Unless the discovery plan		
19	otherwise provides and the court		
20	so orders, the deadlines in Fed. R.		
21	Civ. P. 26(a)(2)(D) for expert		
22	disclosures are modified to require		
23	that rebuttal-expert disclosures be		
24	made 30 days after the initial		
25	disclosure of experts		
26	<b>Interim Status Report:</b>	04/27/2024	06/28/2024
27	60 days before the discovery		
28	cutoff as required by LR 26–3		
29	<b>Dispositive Motions:</b>	07/29/2024	09/26/2024
30	Unless the discovery plan		
31	otherwise provides and the court		
32	so orders, the deadline for filing		
33	dispositive motions is 30 days		
34	after the discovery cut-off date		
35	<b>Joint Pretrial Order:</b>	08/27/2024	10/28/2024
36	Unless the discovery plan		
37	otherwise provides and the court		
38	so orders, the deadline for the joint		
39	pretrial order is 30 days after the		
40	dispositive-motion deadline. If		
41	dispositive motions are filed, the		
42	deadline for filing the joint pretrial		
43	order will be suspended until 30		
44	days after decision on the		
45	dispositive motions or further		
46	court order		
47	<b>FRCP 26(a)(3) Disclosures.</b>	08/27/2024	10/28/2024

Unless the discovery plan otherwise provides and the court so orders, the disclosures required by Fed. R. Civ. P. 26(a)(3) and any objections to them must be included in the joint pretrial order;

1) **Later Appearing Parties.** A copy of this DPSO will be served on any person served after this DPSO is entered by the Court, or if an additional party appears, within five (5) days of their first appearance. This DPSO will apply to later-appearing parties, unless the Court, on a motion and for good cause shown, orders otherwise.

2) **Modifications/Amendments to DPSO.** This DPSO may only be modified for good cause and with the Court's consent. LR 26-4 governs modifications or extensions of any deadlines set by this DPSO. All stipulations or motions to extend a deadline set forth in this DPSO must be received by the Court no later than 21 days before the expiration of the subject deadline, and must comply with LR 26-4.

DATED this 10th day of July 2023.

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/s/ Lars K. Evensen

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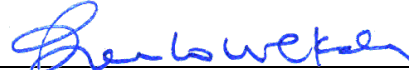
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12 *Owens, Angela Cruickshank, Jeff*

13 *Cruickshank*

14 **IT IS SO ORDERED:**

15 

16 UNITED STATES MAGISTRATE JUDGE

17 DATED: July 11, 2023

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 10th day of July 2023, a true and correct copy of the foregoing  
**FIFTH STIPULATED DISCOVERY PLAN AND SCHEDULING ORDER (SPECIAL  
 SCHEDULING REVIEW REQUESTED)** was served by the following method(s):

- ☒ Electronic: by submitting electronically for filing and/or service with the United States District Court, District of Nevada's e-filing system and served on counsel electronically in accordance with the E-service list to the following email addresses:

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